

MONTANA LEGISLATIVE HISTORY

Chapter 213 19 62

Bill H 515 S _____ Original bill & history C

H. Committee on Judiciary

Hearing Date(s) Feb 01 ☒ C

_____ C

_____ C

_____ C

Date Out Feb 01 ☒ C

S. Committee on Judiciary

Hearing Date(s) Feb 22 ☒ C

_____ C

_____ C

_____ C

Feb 22 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

JUDICIARY COMMITTEE
February 1, 1967

The House Judiciary Committee met upon adjournment Wednesday, February 1. Chairman Mather presided. All members were present except: Murphy, Stratton, Bailey and Sullivan.

HB 446 was discussed, with Rep. Ulmer, chief sponsor, discussing the bill. Also testifying as proponents were:

Chadwick Smith, Attorney, representing Montana
Hospital Association
Bill Leary, Montana Hospital Association.

HB 446 regards extending a lien for services of physicians and others to awards made pursuant to Workmen's Compensation Act.

HB 515 was discussed. Mrs. James, chief sponsor, could not appear. Testifying as a proponent was:

Harry H. Jones, Investment Department, State Auditor's Office,
Helena, Montana

HB 503 was discussed with the understanding there would be other persons testifying tomorrow, so it is being heard in two parts. HB 503 provides for admissibility in evidence in civil trials of published statements. Testifying as a proponent was:

Robert Ryan, Attorney, Billings, Montana

Mr. Ryan proposed an amendment.

HB 437 was discussed and Mr. Warfield, chief sponsor, spoke on behalf of the bill.

Committee action was as follows:

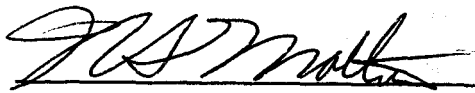
HBs 395, 434, 453, 466, and the remainder of testimony on 503 held over.

HB 446: Hall moved it DO NOT PASS. Motion carried.

HB 515: Hall moved it DO PASS, AS AMENDED, which amendment would strike the provision of actions having to be brought within 2 years and the one making the bill effective immediately, and the motion carried. Hall also moved that the amendment be adopted, which also carried.

HB 437: Warfield moved that it do pass. The motion did not carry. Boughton moved that it DO NOT PASS. The motion carried.

There being no further business, the meeting adjourned.


W. S. MATHER, CHAIRMAN

when these volumns are devised. He said that the Judges of the Supreme Court are in favor of doing it.

House Bill No. 434 was heard by the committee. Appearing before the committee, as chief sponsor and in support of this bill, was Representative Murphy, from Flathead County. He informed the members that the Montana Reports is a most expensive volumn and used very little. He felt that the Judges of the Supreme Court should determine how many to put out and where they should go, and also what publishing company should get the bid.

House Bill No. 354 was heard by the committee. Representative Bardanouve, from Blaine County, was unable to appear before the committee in behalf of his bill. The bill was considered by the committee and Senator McGowan made a motion, seconded by Senator Haughey, that House Bill No. 354 be concurred in. The motion was carried.

House Bill No. 515 was taken up by the committee. Appearing before the committee in opposition to the bill was Ted Hodges. His main objection to the bill was the elimination of the statute of limitations. He said that the Montana Uniform Security Act is just fine as it is written now. Mr. Hodges was representing the Investment Bankers Association.

House Bill No. 398 was then taken up by the committee. No one appeared before the committee to either support or oppose this bill. After consideration by the committee, Senator Turnage made a motion, seconded by Senator McGowan, that House Bill No. 398 be not concurred in. The motion was carried.

After considering the proposed amendments to House Bill No. 433, it was moved by Senator Gilfeather, seconded by Senator Hibbs, that the amendments be adopted. The motion was carried. It was moved by Senator Gilfeather, seconded by Senator Hibbs, that House Bill No. 433, as amended, be concurred in. The motion was carried.

Proposed amendments to House Bill No. 434 were considered by the committee. After consideration, Senator Turnage made a motion, seconded by Senator Haughey, that the amendments be adopted. The motion was carried. Senator Hibbs made a motion, seconded by Senator Turnage, that House Bill No. 434, as amended, be concurred in. The motion was carried.

After considering House Bill No. 296, Senator Turnage made a motion, seconded by Senator Haughey, that House Bill No. 296 be not concurred in. The motion was carried.

After consideration of House Bill No. 374, Senator Turnage moved, seconded by Senator McGowan, that House Bill No. 374 be not concurred in. The motion was carried.

After consideration of House Bill No. 375, a motion was made by Senator Turnage, seconded by Senator McGowan, that House Bill No. 375 be not concurred in. The motion was carried.

Senator Gilfeather proposed an amendment to House Bill No. 415. After consideration of the amendments, Senator Gilfeather made a motion, seconded by Senator Hibbs, that the amendments be adopted. The motion was carried. A motion was then made by Senator Gilfeather, seconded by Senator Hibbs, that House Bill No. 415, as amended, be concurred in. The motion was carried.

After consideration of House Bill No. 466, it was moved by Senator Turnage, seconded by Senator McGowan, that House Bill No. 466 be not concurred in. The motion was carried.

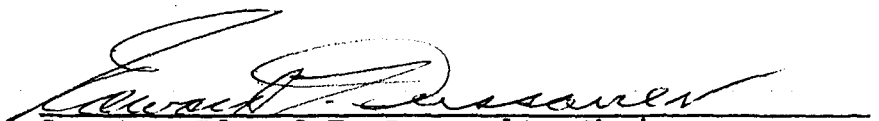
After considering House Bill No. 225, it was moved by Senator Haughey, seconded by Senator Hibbs, that House Bill No. 225 be not concurred in. The motion was carried.

After consideration of House Bill No. 285, Senator Dzivi made a motion, seconded by Senator Hibbs, that House Bill No. 285 be not concurred in. The motion was carried.

Proposed amendments to House Bill No. 187 were considered by the committee. After consideration of the amendments, Senator Turnage made a motion, seconded by Senator Rasmussen, that the amendments be adopted. The motion was carried. It was then moved by Senator Haughey, seconded by Senator Rasmussen, that House Bill No. 187, as amended, be concurred in. The motion was carried.

House Bill No. 515 was considered by the committee. After consideration, it was moved by Senator Dzivi, seconded by Senator Hibbs, that House Bill No. 515 be concurred in. The motion was carried.

Senator McGowan made a motion, seconded by Senator Turnage, that the meeting be adjourned. The motion was carried.


Senator Edward T. Dussault, Chairman

Section 3. This act is effective on its passage and approval. Effective immediately.

Approved: February 28, 1967.

CHAPTER 213

An Act Amending Section 15-2022, R.C.M. 1947, Relating to Civil Remedies Afforded Purchasers of Securities Sold in Violation of the Securities Act of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 15-2022, R.C.M. 1947, be amended to read as follows: Amending clause.

“15-2022. **Civil liabilities.** (1) Any person who offers or sells a security in violation of any provisions of sections 7 through 10 [15-2007 through 15-2010] of this chapter or offers or sells a security by means of fraud or misrepresentation is liable to the person buying the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at six percent (6%) per annum from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less Civil liabilities.

(a) the value of the security when the buyer disposed of it and

(b) interest at six percent (6%) per annum from the date of disposition.

(2) Every person who directly or indirectly controls a seller liable under subsection (1), every partner, officer or director (or person occupying a similar status or performing similar functions) or employee of such a seller, and every broker-dealer or salesman who participates or materially aids in the sale is liable jointly and severally with and to the same extent as the seller, if the non-seller knew or in the exercise of reasonable care could have known, of the existence of the facts by reason of which the liability is alleged to exist. There shall be contribution among the several persons so liable.

(3) Any tender specified in this section may be made at any time before entry of judgment. A cause of action under this statute survives the death of any person who might have been a plaintiff or a defendant. No person may sue under this section

(a) if the buyer has received a written offer at a time when he owned the security, to refund the consideration paid together with interest at six percent (6%) per annum from the date of payment, less the amount of any income received on the security, and he failed to accept the offer within thirty (30) days of its receipt, or

(b) if the buyer has received a written offer at a time when he did not own the security in the amount that would be recoverable under section 22 (1) [(1) of this section] of this title upon a tender less

(1) the value of the security when the buyer disposed of it and

(2) interest at six percent (6%) per annum from the date of disposition.

(4) No person who has made or engaged in the performance of any contract in violation of any provision of this act or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this act or any rule or order hereunder is void as against public policy and in the public interest."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved: February 28, 1967.

CHAPTER 214

An Act Amending Section 68-1307, R.C.M. 1947, Relating to Allocation of Money to Public Employees' Retirement Fund by Providing That Employer Contributions Shall Be Increased to Three and Five Tenths Percent